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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/527,535

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Yasuo Fujii

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EXAMINER

DEMILLE, DANTON D

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/527,535	Applicant(s) FUJII ET AL.	
	Examiner Danton DeMille	Art Unit 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-51 is/are pending in the application.
- 4a) Of the above claim(s) 13-22,24,27-33,36,38,39 and 43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-12,23,25,26,34,35,37,40-42 and 44-51 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/26/05, 1/7/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 13-22, 24, 27-33, 36, 38, 39 and 43 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 20 November 2007. Applicant's remarks have been found persuasive.

Applicant originally elected the species of figures 1-8 and claims 2-8 drawn to the forearm massager in a chair like construction. The species drawn to the forearm massager with air bags 48-50 of figure 8 have also been included in the elected invention. Therefore the elected claims are 2-12, 23, 25, 26, 34, 35, 37, 40-42, 44-51 and an action on these claims follows.

Claims 6, 12, 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 has recited the movable massager as "the armrest is configured to be able to move". Claim 6 recites the movable massager as "the armrest has a moving means configured to move". It is not clear how claim 6 further limits claim 4 since claim 6 does not invoke 112 6th paragraph because there is no functional language following the "means" terminology. The claim goes on to further describe the moving means as being "configured to move the forearm massager in the longitudinal direction of the armrest".

Regarding claim 12, there is no clear antecedent basis for "the massaging portion" and "the pressing portion". It has been assumed claim 12 should depend on claim 9. It is also not

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clear what is meant by “the opposed part of the pressing portion which is opposed to the fix and support portion”. It is not clear what part of the pressing portion is the opposed part.

Regarding claim 23, a support base is claimed as being immovable in a substantially longitudinal direction. It is not clear which element of the massaging apparatus this is intended to comprehend. This would appear to be describing the armrest. It is also not clear what element is meant by the “at least one of opposed parts of the support base”. It is not clear the support base was recited as having opposed parts.

Claim Rejections - 35 USC § 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 35, 44, 45, 47 are rejected under 35 U.S.C. 102(b,e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over anyone of Noriyuki et al. (JP 10-263029), Hata et al. or Gardner.

Noriyuki teaches a massaging apparatus that has a chair-like construction that has an armrest to support a forearm of the user and a forearm massager mounted to the armrest configured to give pressure stimulation to the forearm of the user with the forearm sandwiched. Noriyuki appears to teach in figures 3 and 4 that the device can be a standalone device and therefore would be removably mounted to the armrest of the chair thereby anticipating the claim. At the very least it teaches the device is of simple construction and could be attached to any conventional chair. However, to any extent it is not, it would have been obvious to one of ordinary skill in the art to modify Noriyuki to removably mount the forearm massager to the armrest so the chair can be returned to a conventional chair without the forearm massager.

Hata teaches a massage apparatus that has a chair-like construction in figures 26-28. Hata teaches the intent of the invention is to massage different portions of a human body such as legs or arms, see abstract. Hata teaches column 8, lines 3-7, “[i]t should be noted that while the massage device according to the present invention is formed as a feet mounting rest 82 in each of the illustrated embodiments, it is also possible to arrange the massage device, for instance, at arm rests 82 for performing massage of arms or at any other portion.” As noted above since the device appears to be a standalone device that can be mounted to a chair for massaging the feet or for the arms, the device would be removable since it can be attached it can be removed. However, to any extend it is not, it would have been obvious to one of ordinary skill in the art to modify Hata to removably attach the massage device to the forearm of the chair so the chair can be returned to a conventional chair without the forearm massager.

Gardner teaches a massage apparatus that includes an armrest 10, 12 that supports the forearm of the user and a forearm massager 25, 26 configured to give pressure stimulation to the forearm of the user with the forearm sandwiched. The apparatus is assembled using posts and

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brackets that can be easily disassembled and removed. While the user's arm is being treated it would be nice to have a chair associated with the apparatus in order to provide comfort to the user. However, if it is felt that providing a chair for the user is not inherent, it would have been obvious to one of ordinary skill in the art to modify Gardner to include a chair to provide comfort to the user while being treated.

Claims 3, 8, 9, 10, 11, 12, 46, 48, 49, 50, 51 are rejected under 35 U.S.C. 102(b,e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Noriyuki et al. or Hata et al.

Regarding claim 9, Noriyuki teaches a pressing portion or inner pair of bags 12 contacting the user's arm that are configured to move close to and away from the fix and support portion 11. An actuator or outer pair of bags 12 that remain in contact with the fix and support portion 11 is configured to move the pressing portion to be close to and away from the fix and support portion. A massaging portion is the portion of the pressing portion or inner bags 12 that make contact with the user's arm is provided at the pressing portion to give pressure stimulation to the forearm of the user sandwiched between the fix and support portion and the pressing portion. Hata teaches for example, a pressing portion 3, figures 9d-9e, is configured to move close to and away from the fix and support portion 14 as shown in figure 9e. Figure 9e shows in solid line how the pressing portion has moved away from the fix and support portion 14. The actuator 2 is configured to move the pressing portion to be close to and away from the fix and support portion 14. That portion of the actuator 2 that is in contact with the arm of the user is a massaging portion.

Regarding claim 12, Noriyuki teaches at least two air bags 12 arranged in a direction crossing the longitudinal direction of the armrest. The operation

Claims 4, 5, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Noriyuki et al. or Hata et al. in view of JP52-28517.

JP52-28517 teaches a massager configured to give pressure stimulation that is configured to be able to move longitudinally. It would have been obvious to one of ordinary skill in the art to modify either Noriyuki or Hata to configure the armrest to be able to move the forearm massager longitudinally as taught by JP52-28517 to adjust for different size users.

Claims 2, 3, 4, 5, 6, 8-12, 23, 25, 34, 40, 41, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP52-28517 in view of Noriyasu (JP2001-204776).

JP52-28517 teaches a massager that is capable of massaging the forearm as found in the English abstract lines 3-4. The massager of JP52-28517 is capable of being removed by simply disassembling the massager. While the drawings may not show a chair-like construction with an armrest such would be obvious if not required in order to implement the ability to massage the arms of the user. Noriyasu teaches a similar massaging apparatus that includes an armrest that includes a forearm massager. It would have been obvious to one of ordinary skill in the art to modify JP52-28517 to include the forearm massager in the armrest of the support as taught by Noriyasu in order to complete the teaching of JP52-28517.

Regarding claim 3, the forearm massager itself would having a length that would be less than the length of the armrest.

Regarding claim 8, JP52-28517 teaches for example, a fix and support portion 23 configured to support the forearm when the massager is attached to the armrest.

Regarding claim 9, JP52-28517 teaches a pressing portion 28-31 configured to move close and away from the fix and support portion 23. JP52-28517 teaches an actuator which is the

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expandable tube 28, 29 configured to move the pressing portion. A massaging portion 30, 31 is also taught.

Regarding claim 10, JP52-28517 teaches the actuator 28, 29 is an air bag or tube.

Regarding claim 11, JP52-28517 teaches an actuator 44 configured to move the pressing portion 28-31 to move closer and away from the bottom fix and support portion 23. The massaging portion 28, 29 is an air bag or tube.

Regarding claim 12, JP52-28517 teaches the massaging portion has two air bags 28, 29 arranged in a direction crossing the longitudinal direction. The operation of the actuator causes the pressing portion 28, 31 to move close to the fix and support portion 23. The operation of the massaging portion to cause the two air bags 28 to be expanded to allow the forearm of the user sandwiched between the fix and support portion 23 and the pressing portion 31 to be sandwiched in the direction crossing the longitudinal direction of the armrest.

Regarding claim 23 as understood, JP52-28517 teaches a support base or the armrest is configured to be immovable. A pressing portion 28-31 to cooperate with the support base to sandwich the arm portion of the user supported on the support base.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP52-28517 in view of Noriyasu as applied to claim 25 above, and further in view of Inada et al.

Inada teaches providing a pressure sensor 105 in the air cell. It would have been obvious to one of ordinary skill in the art to further modify JP52-28517 to include a pressure sensor as taught by Inada to monitor pressure being applied to the body.

Claim 37 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hata et al.

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Hata teaches in figure 22 of a plurality of massaging elements configured to be capable of giving pressure stimulation to different positions of the arm. Hata also teaches they can be separately controllable column 6, lines 30-38.

Allowable Subject Matter

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974.

The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

17 March 2008

/Danton DeMille/

Danton DeMille
Primary Examiner
Art Unit 3771